

REMARKS

This responds to the Office Action mailed on May 4, 2005, and the references cited therewith. Claims 1-27 are now pending in this application.

§102 Rejection of the Claims

Claims 1-27 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. 6,336,095 (hereinafter Rosen).

The Office Action states: "Claims 1-27 are rejected;" however, the Office Action does not designate a particular part of Rosen even though Rosen is complex (e.g., 116 pages, 93 sheets of figures, 26 claims). Thus, the Office Action fails to meet the requirements of:

MPEP § 706: "...When a reference is complex or shows or describes inventions other than that claimed by the applicant, *the particular part relied on must be designated* as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified" (emphasis added).

Nevertheless, Applicants respectfully submit that claims 1-27 should not be rejected under 35 U.S.C. § 102(e) for the reason that Rosen does not disclose each and every limitation of the claim 1 of the present application.

To anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Claim 1 includes the following limitation:

...a count of failed transactions related to the party.

The Office Action, in rejecting claim 1, cites Rosen and does not rely on any particular part of Rosen. Nonetheless, Applicants note that Rosen discloses the following:

As described, if a transaction is interrupted during a commit protocol,.... [a] transferee money module records information about the notes it should have received and notifies the subscriber that there is a potential problem (i.e., it did not receive the notes sent by A). ...

The transferee money module subscriber can then make a claim for the money to the Certification Agency. The claim information would include the log record of the failed transaction. The Certification Agency could then check with issuing banks to see if the notes have been reconciled. After some period of time, if the notes have not been reconciled, the subscriber could reclaim his money.

Col. 42, lines 11-27.

The above quote describes processing an interrupted transaction. Specifically a transferee money module records information about notes that the money module should have received and notifies the subscriber of a potential problem. The above quote also describes a log record of the failed transaction.

Claim 1 requires a count of failed transactions related to a party. In contrast the above quote from Rosen describes recording information about notes that were not received. Clearly the information described as recorded by Rosen is not a count, much less a count related to a party. Indeed, the above quote from Rosen describes a “log record of the failed transaction” (emphasis added) but the log record is not described as including a count of failed transactions and presumably includes information that is exclusive to the failed transaction. Rosen therefore cannot be said to anticipate the above quoted limitation because Rosen describes a log record of the failed transaction and recording information about notes not received and claim 1 requires a count of failed transactions related to a party.

In summary, Rosen does not disclose each and every limitation of claim 1, as required to support a rejection of this claim under 35 U.S.C. § 102(e).

The above arguments are also applicable to a consideration of independent claims 8, 15, and 21, and all dependent claims. Accordingly, Applicants request that the above remarks also be considered when examining these other claims of the present application for allowability.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-846-8871 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

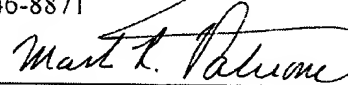
LOU LEONARDO ET AL.

By their Representatives,

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Date 8/1/2005

By

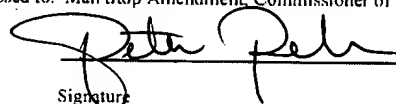


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 1 day of August, 2005.

Peter Rebuffoni

Name



Signature